

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

CWP No.1153/2004

Reserved on.28.11.2007

Decided on. 20.12.2007

Rajmal Saklani.

...Petitioner.

Versus

Union of India and others.

...Respondents

Coram

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting ?¹. No

For the petitioner : Mr. K.S. Thakur, Advocate.

For the respondents Mr. Janesh Mahajan, Central Government Counsel.

Rajiv Sharma, J.

The petitioner while serving at Chamba was transferred to Leh vide movement order dated 10th June, 2004. The petitioner has assailed this order dated 10th June, 2004 primarily on the ground that he is not fit to discharge his duties beyond the height of 9000 feet. He has also assailed the decision of the respondents whereby he was prevented from completing the P.C. Course which commenced with effect from 14th November, 1999 to 18th December, 1999 on medical grounds.

Mr. K.S. Thakur, Advocate appearing on behalf of the petitioner had strenuously argued that the petitioner could not be transferred to Leh taking into consideration his ill-health. He has also contended

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?*

that the action of the respondents of not allowing the petitioner to complete now the P.C. Course is unreasonable.

Mr. Janesh Mahajan, Central Government Counsel had supported the decision of the authorities whereby the petitioner has been transferred from Chamba to Leh as well as taking out the petitioner from the 47th P.C. Course on health grounds.

I have heard the learned counsel for the parties and perused the record.

The petitioner belongs to disciplined force and as per order dated 10th June, 2004, he should have joined his duties at Leh. If, in any manner he was aggrieved of his transfer from Chamba to Leh, he should have made representation to the authorities. He in fact has joined his duties at Leh (Ladhak) as per para 2 of the petition. The petitioner has been found fit to perform his duties at Leh as is evident from the contents of Annexure R-7 annexed with the reply of the respondents. His name figures at Sr. No. 18. It appears that this exercise of declaring the petitioner fit to resume his duties at Leh has been taken after taking into consideration the health of the petitioner. The Court will not interfere with the transfer order, more particularly, when the same pertains to disciplined force like the ITBP.

Mr. Thakur had strenuously argued that the petitioner was due for P.C. Course in the year 1995, but it was only in the year 1999 that he was permitted to join the 47th P.C. Course, which commenced with effect from 11th October, 1999 to 18th December, 1999. The minimum service for being promoted from the post of Head Constable to Sub Inspector (GD) is that the incumbent should have put in at least ten years regular service and he should be in Medical Category Shape-I. He was referred to M.C. Dehradun on 16th November, 1999 due to

severe pain and discharge from right ear with headache. He was discharged on 29th November, 1999. It is evident from the medical case-sheet of the petitioner filed along with the reply that on 23rd November, 1999 he was put in low medical category i.e. CEE (T) for 6-12 years. The next medical board was convened on 26.5.2000 and he was again put in CEE (T) for 6-12 years with effect from 24.4.2000. He was put in CEE (T) on 23.11.2000 and H3 (P) with effect from 18.6.2001 on the basis of the opinion of the medical board. It is evident from the contents of Annexure P-1 that the next medical board was convened on 9th September, 2003 which has recommended medical category H2 (P) with effect from 8th September, 2003 after agreeing with the opinion of the specialist.

The petitioner was put in medical category CEE (T) for 6-12 years on 23rd November, 1999 during the course of 47th P.C. Course. Since he was not found medically fit, he could not be permitted to complete the P.C. Course. The P.C. Course is mandatory as per the Recruitment and Promotion Rules for the post of Sub Inspector with medical category Shape-I. The petitioner has been taken out from the course with effect from 16th November, 1999. The present petition has been filed on 17th December, 2004. It is evident from the representations made by the petitioner that he has started making them only in the year 2003 onwards though his name was struck off from the 47th P.C. Course in the year 1999 itself. There is no explanation put forth by the petitioner for approaching the Court belatedly. Since the petitioner did not complete the P.C. Course after being put in low medical category, he could not be promoted to the post of Sub Inspector.

In view of the observations made hereinabove, there is no force in the writ petition and the same is dismissed with no order as to costs.

(Rajiv Sharma), Judge

20.12.2007

Awasthi